

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of ALBERT LEWIS, Minor.

---

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ALBERT CHARLES LEWIS,

Respondent-Appellant,

and

SHERRI ROSS,

Respondent.

---

UNPUBLISHED  
February 17, 2004

No. 251255  
Genesee Circuit Court  
Family Division  
LC No. 00-113343-NA

Before: Cooper, P.J., and O'Connell and Fort Hood, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (g), and (h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant does not contest the trial court's finding that at least one statutory ground supporting termination of his parental rights was established by clear and convincing evidence. Instead, he argues only that the evidence established that severing the parent-child bond would be detrimental to the minor child.

Given the existence of a statutory ground supporting termination, the court was required to terminate respondent-appellant's parental rights unless the court found that termination was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000). The trial court adequately stated facts on the record indicating that it considered the entirety of the evidence in making its best interests determination. Respondent-appellant was imprisoned prior to the minor child's birth, and at the time of the hearing, he was not scheduled to be released until the child was nine years old. Although respondent-appellant

appealed pro se his sentence to the Sixth Circuit Court of Appeals, there was no indication that the appeal would be successful and result in his early release. Respondent-appellant maintained frequent and consistent communication with the child by phone, and the child identified respondent-appellant as his father. Evidence was presented that the child would be emotionally harmed by termination. However, the parent-child bond was necessarily limited by the child's young age of four years and the fact that the child had seen respondent-appellant only once or twice and had never been physically parented by respondent-appellant.

As an alternative to termination of his parental rights, respondent-appellant argued for a guardianship or long-term foster care placement with the child's maternal grandmother until his release from prison in June 2008. The evidence showed that the grandmother would allow unlimited access to the child by his unrehabilitated mother regardless of termination of the mother's parental rights. Additionally, the guardianship would not offer permanence because the child's mother could challenge it at any time. Respondent-appellant would require services upon release in 2008, and if he were subsequently found unfit to parent, another child protective proceeding and further impermanence in the child's life would result.

Given the tenuous nature of the parent-child bond, the impermanence offered by the guardianship alternative, and the length of time respondent-appellant would yet be incarcerated, the trial court did not err in finding that the evidence on the whole showed that termination was in the minor child's best interests. Therefore, the trial court did not err when it terminated respondent-appellant's parental rights to the child.

Affirmed.

/s/ Jessica R. Cooper  
/s/ Peter D. O'Connell  
/s/ Karen M. Fort Hood